GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

PUBLIC SERVICES – Prohibition & Excise Department – Sri Kalyanam Bhaskara Rao, formerly Assistant Commissioner of Prohibition & Excise, Srikakulam (Retd. on 30.06.2004) – Allegation of acquisition of assets disproportionate to his known sources of income –Withdrawal of prosecution – Initiation of Departmental Action – Reiterated - Orders – Issued.

REVENUE (VIG.III) DEPARTMENT

G.O. Rt. No.536. Dated.08.06.2015.

Read the following:-

1. From the D.G., ACB., A.P., Hyderabad Lr. Rc.No.104/RCA-VSK/2000-S12, dt.11.11.2003.
2. Govt. Memo No.2708/Vig.V(2)/2001-8, dt.22.02.2005.
3. The Income Tax Appellate Tribunal, Hyderabad Bench, Hyderabad IT (SS) A No.81/Hyd/05, dt.31.07.2009, 23.07.2010 and 12.11.2010.
4. Sri K.Bhaskara Rao, AC P&E (Retd) Representation, dt.02.01.2013.
5. G.O.Rt.No.1645, Rev (Vig.V) Dept, dt.12.11.2013.
6. Representation of Kalyana Bhaskara Rao, AC, (Retd), dt. -2-2014
7. From DG, ACB Lr.Rc.No.104/RCA-VSK/2000/S-12, dt.30.1.2014.
8. From DG, ACB Lr.Rc.No.104/RCA-VSK/2000/S-12, dt.29.4.2014.
9. G.O.Rt No.843, Rev(Vig.III) Dept., dated.24.09.2014.
10. From DG, ACB Lr.Rc.No.104/RCA-VSK/2000/S-12, dt.17.11.2014.
11. G.O.Rt No.1109, Rev(Vig.III) Dept., dated.08.12.2014.
12. From DG, ACB Lr.Rc.No.104/RCA-VSK/2000/S-12, dt.22.01.2015.
13. G.O.Rt No.110, Rev(Vig.III) Dept., dated.16.02.2015.
14. From DG, ACB Lr.Rc.No.104/RCA-VSK/2000/S-12, dt.23.05.2015.

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O R D E R:

In the reference 1st read above, the Director General, Anti Corruption Bureau, A.P., Hyderabad has recommended for prosecution of Sri Kalyanam Bhaskara Rao, formerly Assistant Commissioner of Prohibition & Excise, Srikakulam (Retd. on 30.06.2004) in the court of law, on the allegation that he acquired assets disproportionate to the known sources of his legal income to a tune of Rs.97,86,854/-

2. In the reference 2nd read above, the Director General, Anti Corruption Bureau, A.P., Hyderabad was permitted to file charge sheet in the Hon'ble Special Court for SPE & ACB Court, Visakhapatnam, and the ACB authorities have filed charge sheet on 09.05.2005.

3. In the reference 4th read above, Sri K.Bhaskar Rao, AC P&E (Retd.) has made a representation before the Government, stating that the Assessing Officer, Income-Tax Department without properly considering the explanations submitted by him, his relatives and other witnesses produced, arbitrarily determined his undisclosed income at Rs.60,47,537/-. When approached, the Income Tax Appellate Tribunal (ITAT) in its order reduced the assessed income to Rs.5,10,000/- from Rs.60,47,537/- and held that the balance amount of Rs.55,37,537/- cannot be treated as undisclosed income. He has also stated that he has informed the department about the movable and immovable properties belong to him and his family members i.e., his wife and his children and sources for acquisition and most of the fixed deposits are held by him and his family members. Some of the amounts were

received by his children from their grandparents from their childhood i.e., from his father, his mother and his father in law, who passed away. He has requested the Government to consider the facts narrated in the representation and to drop further action by cancelling the prosecution orders in the matter.

4. Government after careful examination of the representation of the Accused Officer, observed that while assessing the value of the properties the details filed with taxation authorities and in the property returns shall be given due weightage while calculating the disproportionate assets. It is also observed that the properties of the kith and kin of the accused officer should not automatically be added to the property of the Accused Officer without proper analysis of the source of such assets of kith and kin and friends as per the instructions issued in Govt. Memo No.623/Spl.C/A1/2008-1, dt.15.10.2008. These instructions should be undertaken before arriving at a decision to include the same in the properties of the accused officer and the Government servant shall be allowed 20% margin while computing the disproportionate assets. The instant case is arising out of the surprise check conducted by the Income Tax Authorities on 10.06.2000 while the AO travelling from Srikakulam to Hyderabad to undergo Training. When the AO approached the Income Tax Appellate Tribunal (ITAT) against assessment orders, the Hon'ble ITAT has reduced the undisclosed income from Rs.60,47,537/- to Rs.5,10,000/-. For that amount the Accused Officer has stated that out of Rs.5,10,000/-, Rs.1,75,000/- represents the loan taken for purchase of Indica Car for which permission was obtained Rs.25,000/- and Rs.3,00,000/- being the investment in fixed deposits were explained to be the amounts received from the parents and in-laws of the CO as gifts to the grand children and from out of the savings of the AO. Government after considering the facts put forth by the AO, have decided to withdraw the prosecution against Sri K.Bhaskara Rao, Assistant Commissioner of Prohibition & Excise (Retd.) and to initiate Departmental Action against him instead of prosecution and requested the DG, ACB to direct the concerned Public Prosecutor to withdraw the prosecution filed against Sri Kalyanam Bhaskara Rao, Assistant Commissioner of Prohibition & Excise, (Retd.) and furnish the draft Article of Charges against the AO to Government for taking further action in the matter vide G.O. 5th read above.

5. In the reference 7^{th,} 8th 10th and 12th read above, the DG, ACB has requested to recall the Govt. decision to withdraw the prosecution against Sri K.Bhaskara Rao, Asst. Commissioner, P&E (Retd) from the Special Court and to entrust in to the departmental enquiry, as the charge sheet was already filed against the AO in the Court of Special Judge for SPE & ACB Cases, Visakhapatnam on 09.05.2005 and the case was taken on file in CC NO.20/2005. Trial is going on, and two Investigating Officers were already examined in the Court of Special Judge for SPE & ACB Cases, Visakhapatnam.

6. Govt. after careful examination of the request of the DG, ACB, have decided and re-iterated the earlier decision i.e., to withdraw the prosecution filed against Sri K.Bhaskara Rao, AC P&E (Retd) and to initiate departmental action and requested to implement the earlier Government orders issued in G.O.Rt.No.1645, Rev (Vig.V) Dept. dt.12.11.2013 and to direct the concerned Public Prosecutor to withdraw the prosecution filed against Sri Kalyanam Bhaskara Rao, Assistant Commissioner of Prohibition & Excise (Retd) and furnish the draft Article of Charges against the AO to Government for taking further action in the matter vide reference 9th, 11th and 13th read above.

7. In the reference 14th read above, the Director General, Anti Corruption Bureau, while reiterating his earlier letters and quoting certain High

Court/Supreme Court Judgments and also circular memo of GA(Spl.C) Dept., has requested the Govt. to reconsider the decision taken by the Govt. to withdraw the prosecution against the A.O. from the special court and entrust it to the departmental enquiry.

8. Govt. after careful examination of the request of the DG, ACB, have decided to re-iterate the earlier decision i.e., to withdraw the prosecution filed against Sri K.Bhaskara Rao, AC P&E (Retd) and to entrust it to the departmental action. Therefore the DG, ACB is requested to implement the earlier Government orders issued vide reference 5th, 9th, 11th and 13th read above, and to direct the concerned Public Prosecutor to withdraw the prosecution filed against Sri Kalyanam Bhaskara Rao, Assistant Commissioner of Prohibition & Excise (Retd) and furnish the draft Article of Charges against the AO to Government for taking further action in the matter.

9. The Director General, Anti Corruption Bureau, is therefore requested to take necessary action accordingly, and to furnish the draft Articles of Charges immediately to Govt. for taking further action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

AJEYA KALLAM
SPECIAL CHIEF SECRETARY TO GOVERNMENT

To
The Director General, Anti Corruption Bureau, Andhra Pradesh, Hyderabad.
Sri Kalyanam Bhaskara Rao, Assistant Commissioner of Prohibition & Excise (Retd), H.No.7-1-390, Flat No.201, Sri Sai Residency, Balkampet Main Road, S.R. Nagar, Hyderabad – 500 038. Telangana State.
Copy to the Commissioner of Prohibition & Excise, A.P., Hyderabad.
Copy:-
The Secretary, A.P. Vigilance Commission, Secretariat, Hyderabad.
SF/SC.

//FORWARDED::BY ORDER//

SECTION OFFICER